THE HONOURABLE SRI JUSTICE N.V.RAMANA

Writ Petition No.13674 of 2005

Dated:8th February, 2006

Between:

S.Janardhan & others.

…..PETITIONERS

AND

The Regional Manager,
APSRTC, Hyderabad City,
J.B.S, Picket, Secunderabad
& 2 others.

….RESPONDENTS

THE HONOURABLE SRI JUSTICE
N.V.RAMANA

W.P.No.13674 of 2005

ORDER:

This writ petition is filed to declare the action of the respondents in engaging/appointing the petitioners as drivers on contract basis for a period of 3 months as bad, illegal and arbitrary and contrary to the circulars and consequently to direct the respondents to engage the petitioners on daily wage and regularize/absorb their services as Drivers after completion of 240 days of their service.

It is the main contention of the learned counsel for the petitioners that the Regional Manager, Hyderabad City, in violation of para 3.13 of the circular No.PD-43/2000, dated 11-8-2000, wherein it is stated that the selected Drivers will be appointed afresh on casual basis, has now sent Lr.No.D3/255(3)/05-HCR dated 19-5-2005 to the petitioners individually for engaging them on contract basis in Hyderabad city and Ranga Reddy Division and if the petitioners are interested in such an appointment they are informed to enter into an agreement on Rs.100/- Non-Judicial Stamp Paper, and such action of the respondents is illegal, arbitrary.

Respondent No.1 filed Counter affidavit. Based on the counter affidavit, the learned Standing Counsel for A.P.S.R.T.C submitted that because of the financial crisis of the respondent Corporation G.O.Ms.No.74, dated 7-4-2005 was issued by the State Government permitting the Corporation to engage drivers on contract basis. In pursuance of the said G.O., a letter is addressed by the Executive Director to the Regional Manager on 12-4-2005 granting permission with a condition that in case if they want to engage they can engage the drivers on contract basis. In pursuance of the said letter the respondents wants to engage the same drivers on contract basis.

Heard at length the learned counsel for the petitioners and the learned Standing Counsel for the Corporation.

The questions, whether the petitioners were engaged by the respondents directly or were employed through the contractor, or whether the employment of the petitioners through the contractor was a camouflage to deny the petitioners the benefit of regularization, whether the petitioners worked for 240 days in a year continuously without break in service, or whether the petitioner is entitled to be regularized in terms of para 3.13 of the circular No.PD-43/2000, dated 11-8-2000, wherein it is stated that the selected Drivers will be appointed afresh on casual basis, or whether due to financial crisis of the respondent Corporation G.O.Ms.No.74 dated 7-4-2005 was issued by the State Government permitting the Corporation to engage drivers on contract basis, are all disputed questions of fact, which can be decided only after adducing of oral and documentary evidence, and having regard to the judgment of the apex Court in **ONGC Ltd. V. Shyamlal Chandra Bhowmik**[1], the said disputed questions, which require adducing of oral and documentary evidence by the parties, cannot be gone into by this Court in a writ petition, and the remedy of the petitioner, if any, is to raise an industrial dispute under the Industrial Disputes Act, 1947 before the Labour Court.

Hence, granting liberty to the petitioners to raise an industrial dispute under the Industrial Disputes Act, 1947, before the Labour Court, the writ petition is dismissed. No costs.

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(N.V. RAMANA, J.)

Date:8th Febraury, 2006.

GRK

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[1] (2006) 1 SCC 337